IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8571 OF 2005

Kisan D. Talape Petitioner

versus

Smt.Meena K. Talape Respondent

Mr.V.D.Borwankar and A.S.Pratinidhi for petitioner

CORAM : S.C.DHARMADHIKARI, J.

DATE : 27th January 2006

PC :

1. The petitioner-husband is aggrieved by an order passed on the maintenance application which was preferred in a suit instituted by the respondent-wife.

2. The order is interlocutory. The petitioner has been directed to pay a sum of Rs.1,500/- per month from the date of application for interim maintenance. That order was passed on 28th February 2003.

3. It appears from the record that the grievance

initially made by the petitioner was that the order was passed in a petition for maintenance u/s.18 of the Hindu Adoption and Maintenance Act, 1956. However, the said petition is not what is contemplated by this provision. The Trial Court converted the petition into the suit. Learned counsel appearing for the petitioner does not challenge this part of the decision of the Trial Court.

4. However, in his submission, the Trial Court has rejected the review petition which was preferred to review the order of interim maintenance only by relying on this aspect and proceeding on the basis that the review petition projects only one grievance namely that the petition cannot be converted into a suit.

5. However, in his submission, the grounds raised in the review petition not just proceed on this basis but also highlight the errors apparent while passing the interlocutory order for maintenance. He has invited my attention to grounds (e) to (k) which have been raised in the review petition preferred on 30th October 2003 to seek review of the order dated 20th February 2003 and 22nd August 2003.

6. In my view, instead of respondent being summoned to answer all these contentions in this Court, interest of justice would be served if the petitioner is granted liberty to reagitate all the above pleas after putting him to terms.

7. Shri Pratinidhi who has argued the matter for the petitioner on the last occasion, had sought time to seek instructions with regard to payment of a substantial sum to the respondent-wife as a condition for revival of the proceedings before the Trial Court,.

8. Today, he makes a statement, after taking instructions from the petitioner, that the petitioner would pay 50% of the amount directed by the Trial Court which comes to about Rs.18,000/- within a period of three weeks from today without prejudice to the rights and contentions of the petitioner in the review petition.

9. In case the petitioner pays the amount as undertaken above and provides proof of such payment to the satisfaction of the Trial Court, the Trial Court shall restore the Review Petition

No.852 of 2003 to its file and dispose of the same after hearing the petitioner as well as respondent-wife and in accordance with law. All contentions on merits of both sides are expressly kept open for being agitated before the Trial Court.

10. Needless to state that if the amount is not paid as undertaken above, the review petition to stand dismissed.

(S.C.DHARMADHIKARI, J.)